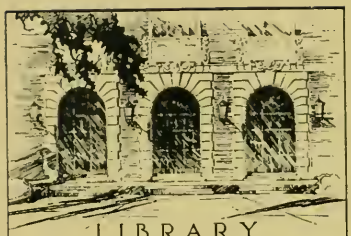

From W. P. W.

SPEECH

OF

WILLIAM PAGE WOOD, ESQ.

LONDON:
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ST. JOHN'S SQUARE.

SPEECH

OF

WILLIAM PAGE WOOD, ESQ.

AGAINST

THE SECOND READING OF THE BILL

FOR ALTERING THE

LAW OF MARRIAGE,

FEBRUARY 27, 1850.

LONDON:
FRANCIS & JOHN RIVINGTON,
ST. PAUL'S CHURCH YARD, AND WATERLOO PLACE.
1850.

ADVERTISEMENT.

I HAVE been requested to publish this Speech by many persons who concur with me in the opinions which I have expressed.

An active agitation has been carried on in support of the Bill; and I have therefore thought it right to contribute, by every means in my power, to counteract a measure which I believe to be fraught with the most disastrous consequences to the purity and happiness of the Homes of England.

Time did not allow me to develop completely the line of argument which I adopted; and I have added a few suggestions in the Appendix, being desirous to give as faithful a statement as I have been able to frame from memory, and from the newspaper reports of the Speech itself.

A

SPEECH,

&c.

Sir,

It is not without considerable difficulty that I have resolved to address the House upon this subject. When it was before their consideration last year, I felt myself overwhelmed by its extreme difficulty, and forbore to enter upon a discussion so delicate; involving, as it does, the relations between the male and female portions of our community, on the one hand, and, on the other, questions of a theological nature with reference to the correct interpretation of portions of the Holy Scriptures. My embarrassment has, however, in some measure been removed by the tone and temper in which the matter has been discussed; a tone and temper for which, it is only just to say, we are mainly indebted to the example set by the right honourable gentleman who has introduced the measure. I may add that there are provisions in the present Bill which secure due liberty

of conscience to the Clergy, and mitigate, though they do not remove, my objections to its principle.

In the course of the observations which I shall feel it my duty to make, I wish, in the first instance, to approach the consideration of the subject on grounds wholly independent of the Divine approbation or disapprobation of the marriages which it is proposed to sanction. I have a strong opinion upon that point myself, and shall not shrink from stating it before I sit down; but I apprehend that I am not therefore incompetent to appreciate arguments founded on our natural reason, any more than a believer in revealed religion generally would therefore be unable to follow the reasoning of Paley in his "Natural Theology," or of Butler in his "Analogy."

Let us, then, discuss the question, as if in the absence of the slightest indication of the revealed will of God regarding it. Now, it has been constantly asserted that the *onus* of proving that marriage with the sister of a deceased wife is unlawful lies upon those who hold that opinion, instead of being imposed upon those who ask us to vary a long-established law. And the argument is usually put thus: Marriage is a thing lawful in itself; and if you cannot prove a given marriage to be forbidden by the law of God, then you are not entitled to prohibit it. But if this mode of argument be correct, what are we to say to the heathen nations of antiquity, who had no revealed law of God to guide them, but nevertheless had their marriage laws, and imposed prohibitions and restraints, more or less

stringent, in respect of marriage? Every nation had some rule upon the subject; and it is remarkable, that in proportion as you find a nation advanced in its general tone of morals, so do the restrictions become more positive and decided. Among Asiatic nations, not only polygamy, but marriages with sisters of the whole blood, were permitted. The nations of Europe did not allow polygamy. The Athenians allowed marriage with a sister of the half-blood; but the Romans, who were as distinguished for their sturdy morals as for their sturdy valour, were far more strict in their marriage law. They not only forbade the marriage with a sister, but, in Rome's earliest days, that of first cousins also; and they were equally strict in their law of divorce, a subject which has a very near connexion with that which I am now discussing. It is very remarkable also, that when the custom had become frequent of adopting children, the adopted child was forbidden to marry with the children of his adopting parent; a prohibition obviously founded on analogous grounds to those which, independently of revelation, render it inexpedient to permit marriage with a wife's sister.

But relaxation of morals has usually been attended with relaxation of the laws relating to marriage. Civilization has its vast advantages, which I am far from wishing to depreciate; but it is usually accompanied by a relaxation of morals against which all highly civilized nations should be peculiarly on their guard. Thus it was with Rome. First, she relaxed her law of divorce; then she gave up some of the

prohibitions against particular marriages. At length a remarkable case occurred, as to which we have the advantage of a full report in the historian Tacitus. It is the case of the emperor Claudius. He was desirous of marrying his own niece. Tacitus, himself a stern moralist, tells us, that it was a long time before the emperor dared to bring forward this proposal; that he was afraid of public feeling; but that there were parasites about him ready to prove that his wish was a reasonable one, and that the objections to it were based on mere antiquated prejudice. So at last he went down to the Senate, and made them a speech, the arguments of which were very like those used now by the right honourable mover of this bill. The report of it runs thus: "Nova *nobis* in fratrum filias conjugia, sed *aliis* gentibus solennia, nec lege ullâ prohibita: et *sobrinarum* diù ignorata, tempore addito percrebuisse: morem accommodari prout conducat, et fore hoc quoque in his quæ mox usurpentur." That was, in other words, if I may paraphrase it for the present occasion—"Well, it is true our people don't much like such marriages, our ancestors had prejudices on the subject; but look at Germany and America, they are very common there. The old councils of the Church, too, prohibit them; but then they once prohibited the marriages of first cousins, which was a clear mistake: therefore, why should we attend to them when they object to the wife's sister?" The Emperor was successful in persuading the Senate, and married the lady who poisoned him.

But, Sir, let me speak more seriously, for the question before the House appears to me one of the deepest interest. I have never known one of graver import. We have often before us questions of great importance with reference to the distribution of political power, or of wealth; but we are now invited to take a step which will effect a social revolution; to alter, in fact, the moral and social position of every home in England. I say advisedly, the moral and social position of our homes, and not the *religious*, because *that* is beyond our power. Yes, Sir, the unanimous vote of this House could not alter one jot or one tittle of the Divine law. Pass this measure, if you please, yet they who avail themselves of it must take upon themselves the awful responsibility of deciding whether their marriage be lawful in the eye of God. I am addressing myself, then, be it remembered, to the moral and social question alone. Then, Sir, I ask, Does the onus of proving the fitness of the present state of the law rest upon us, or upon those who would change it? Why, ever since England was England, we have lived, and regulated our homes, and formed our relationships under a law which prohibits marriage with a wife's sister! Let those who are dissatisfied with its provisions prove to us their grievance. Have they carefully considered the social relations of our English homes as compared with those of foreign countries? I am not one of those who think it wise for nations, any more than for individuals, to indulge the habit of contemplating their

own excellencies and the faults of their neighbours; but, when questions affecting the basis of our social institutions are urged upon us, and we are told to look to foreign nations as our example, the comparison is forced upon us. Is there, then, any honourable member prepared to say that he has observed practical advantages in the social system of other countries with reference to marriage, or the sanctity of the marriage tie, as contrasted with our own? I confess, Sir, that I have been led to the contrary conclusion, so far as my own experience has extended. There are two points which appear to me singularly to distinguish our own country in this matter; namely, the confiding frankness and innocent familiarity and liberty of our young unmarried women on the one hand, and the deep devotion and the domestic attachment of our married women on the other—the one indeed appears to me to be a natural consequence of the other. The liberty allowed to our young people renders them less desirous of leaving their home when married. We are, moreover, as compared with the continental nations, a remarkably "stay-at-home" people, not entering so constantly into society; and, consequently, there is a greater degree of intimacy amongst those who are admitted to the home circle. Put these things together. The sister-in-law is brought up in the habit of open frankness; she is admitted to her sister's home as one of its inmates, and to all its consequent familiarity. And does not every one who hears me feel, and know, that he is on terms of intimacy and

familiarity with his sister-in-law which would not be permitted in the case of any other unmarried woman? Are we, then, to remove the barrier which custom, growing out of a settled system of law, has so long interposed, no less than religious belief, between parties so situated?

Sir, it may be well to say that this is a low view of moral obligation; but I regret to say that the progress of our civilization, with its many undoubted blessings and advantages, is attended by certain disadvantages also, and specially by a relaxation of the bonds of morality, and a lowering of its tone. It is not a time, therefore, to throw away any restraint; nay, I think I have observed symptoms, not very obscure, of a degradation of moral feeling in respect of this very subject before the House. It is not long since a person convicted of familiarities, which had degenerated into crime, towards his wife's sister, was appointed to an office of public trust. In the evidence, too, before the commissioners, which we are now asked to act upon, I find the case stated of a party who wished to marry his wife's sister, but, finding that the law would not permit it, agreed to live with her in concubinage. The witness states that the parties are *respectable*, and "keep their carriage." The truth is, that in what is termed a civilized age there is a general reluctance to visit any offence severely; there is a softness of character which craves and bestows indulgence, where, at a more vigorous and manly period, punishment would have been awarded to, nay, even accepted by, the

wrong-doer, as a rational and beneficial check, a safeguard against our own frailty. The same overwrought feelings which prompt a morbid sympathy, even with the murderer, operate yet more strongly in favour of those who have been led by softer passions to the commission of offences against public morals. But no one will say that these tendencies should operate in favour of a relaxation of laws framed with reference to a loftier standard of right and wrong.

If, then, the burthen of proof be on the promoters of a new law, or the advocates of a repeal of a restriction which has existed as long as our community itself, what are the arguments with which we are pressed? I certainly was never more astonished than when I first heard the proposed measure advocated on the ground of a charitable regard to the poor. Now, I had never met with an instance of such a marriage being had or desired amongst the poor. I am sure every one, who has had much experience of the habits of the poor, must know that they marry at so early an age that it would be a rare chance for a widower to find any of his late wife's sisters still unmarried. But the case does not rest upon general reasoning. The able solicitors employed to get up the case in support of this Bill have, it appears, ascertained that since Lord Lyndhurst's Act about fifteen hundred marriages with a wife's sister have taken place. Out of these, one hundred and fifty, or thereabouts, were amongst classes in a professional or higher rank, about

thirteen hundred in the middle classes of society, and not fifty, or little more than three per cent. of them, amongst the poor. This is a statistical fact; and although the right honourable gentleman has to-day read to the House many letters from clergymen stating that they know of many such cases amongst the poor, I confess that I have very little confidence in general impressions, where there has been no statistical inquiry. I remember a circumstance which affords a good illustration of the difference between a general impression and a statistical certainty. A medical friend of mine was desirous of ascertaining the proportion of individuals having light hair and blue eyes in given localities, with reference to certain statistics of disease. For that purpose he visited the schools of the poor in various parts of England, and attained such a knowledge of the probable proportion in any given locality as to enable him to make a tolerably accurate guess before actually counting the children. In one instance he entered a school of about seven hundred children in London, and, in order to test the habits of observation of the master, asked him, if he could tell him how many of his children had this peculiarity. The master replied, he thought he could guess the number pretty nearly, and said, "he should think about one half." My friend answered, "Before I count them, I will tell you there is not one-seventh." He then counted them, and it was scarcely one-tenth. So much for general impressions. I have myself inquired into the matter in the parish in which we

are now sitting. The two parishes, indeed, of St. Margaret and St. John are united, as regards the relief of the poor, we have 60,000 parishioners, and about 26,000 of the lowest poor. Now, I have made inquiry of persons specially employed by the clergy and others in visiting the poor, and who have had great experience in so doing, and they tell me that they only know of one instance of marriage with a wife's sister amongst the poor of these parishes, and that the man is looked down upon by his neighbours[1]. There are, however, two cases of men living with their own sisters; and of course in such a parish you may meet with other instances of criminal intercourse. I contend that, if this case is to rest upon the position of the poor, it must be given up. My belief is, that the poor, of all others, retain the impressions of long-existing customs. They become deeply ingrained in their minds; and an impression having once been made upon them that such marriages are incestuous, could with difficulty be removed. In England we have reason to believe this impression is strong; but in Scotland it is yet stronger. In truth, the poor are more tenacious in such matters than the rich, and are less susceptible of those changes of opinion which civilization and luxury introduce.

Well, then, we are reduced, by statistics, to the fact that a certain portion of the middle class, small when compared with the entire population of the

[1] See Appendix A.

country, have broken the existing law. Is this, sir, a sufficient ground for so momentous an alteration in our whole social fabric? I wish to say nothing unnecessarily severe of those who have so broken the existing law, but I ask if it be not some token of relaxation of morals, that in most of those cases, nearly all that have occurred in England, a false declaration has been made to the registrar, or a false answer given to the solemn inquiry made by the officiating minister, under the most awful sanction. I was astonished that the honourable and gallant member for Bradford (Colonel Thompson) should think it a sufficient answer to say that the question, in our Prayer Book, is whether the parties know of any impediment by *God's law*, and that *they* would not think their relationship to be such. Surely every right-minded man answers a question *secundum animum imponentis*. Now, the intention of the Church in the question is notorious; and if a Mahometan should ask me if I were *of the true faith*, I should not be justified in answering in the affirmative, when I knew that he meant his own faith, because I believe Christianity to be true. But we are not, on the other hand, without very strong evidence of the light in which the alteration is regarded by those who have not broken the law, and who have the deepest interest in this question; I mean, the great majority of the women of England. A memorial has been presented on behalf of some thousands of the women of England to Her Majesty, deprecating the proposed measure. No counter-

memorial has been heard of. I regret the different view that is taken by society of the moral guilt of man as compared with that of woman, in regard to offences connected with breach of the marriage vow. But surely, sir, this very circumstance gives an additional weight to the opinions of women on such a subject as that now before us; and I believe that opinion to be yet more decided against the right honourable gentleman's Bill, than can be made manifest by public demonstrations. Women require every protection that religious belief, the force of opinion, and the sanction of law can afford. I protest, therefore, against any tampering with that law which has, indeed, placed the wife's sister in a position of peculiar intimacy with her husband, but has at the same time shielded her from the peculiar dangers of such a position.

I have thus, sir, endeavoured to argue this question upon grounds wholly independent of the revealed law of God. I have felt the difficulty of arguing it on any other grounds in this House. The honourable and learned member for Abingdon, (Sir F. Thesiger,) has, in his able speech this morning, expressed a wish that the Church should, in convocation or by other means, express her view of the Levitical Code. But, sir, I feel that no expression of the opinion of the Church would bind those members of this House who reject her authority [2]. At the same time, I should very

[2] See Appendix B.

inadequately express my own sentiments, if I hesitated to state my own deep and earnest conviction upon the subject. Before doing so, I must advert to the very unfair course that has been adopted by some unscrupulous advocates of the measure before us. It has been constantly argued that a party only in the Church are opposed to it. And it is evidently wished to create a prejudice against the existing law, by ascribing to its supporters views to which a nickname has been attached, by designating them as belonging to a party in the Church of England supposed to lean strongly to the doctrines of the Church of Rome. In short the old "No Popery" cry has been again resorted to. Now, it is a most remarkable fact, that if there be any portion of Scripture, the interpretation of which may be said to be Protestant in its character, as opposed to what we consider the corruptions of the Church of Rome, it is the interpretation of the 18th chapter of Leviticus, as being of general, and not merely Jewish obligation; and of that part of it in particular which relates to the subject before us, as being a distinct prohibition of marriage with a wife's sister. Jewel and Cranmer are both of them explicit on this point: the one affirming that since the marriage with a husband's brother is forbidden (except in the particular case where it is for special reasons enjoined, God's will being always the foundation of all law), the marriage with the wife's sister is by parity of reasoning forbidden also; and the other having distinctly declined to

sanction such a marriage, though much pressed to do so by the favourite Cromwell. And, in saying that this is a Protestant interpretation, I do not abandon my vantage-ground of its being the ancient interpretation of our Church before the Reformation. Any one who has looked into the subject, will see that such marriages were not heard of, or tolerated in the Church until the time of Papal corruptions; and when the right honourable gentleman tells us that no prohibition occurs earlier than the fourth century, I answer by saying, that no such prohibition was needed. All you can show me is that at the first moment of our hearing of any such marriage, we hear also of Basil's horror and disgust at it. The Church henceforth prohibited it; but the Romish Church took upon itself, though continuing the prohibition, to allow Papal dispensations from it —and one of the first, if not the first of such dispensations, was granted by Alexander the Sixth—the greatest monster that ever filled the Papal chair, and who lived in incest with his own daughter. Having taken upon itself to dispense with the prohibition, that Church was compelled to hold that the Levitical prohibitions were not part of the positive and general law of God, but peculiar to the Jews; and that the prohibitions of the Church, therefore, were matters of discipline only; and accordingly they allowed, and still allow, marriage between an uncle and his own niece on dispensation. But the Protestant view has always been opposed to this; and the Gallican Church, which in its best days asserted

its freedom from Papal influence and despotism, would not allow these dispensations. The Parliament of Paris had indeed allowed it in one case, which occurred in 1683; but in the very remarkable case of the Marquis de Sailly, which lasted several years, and was terminated in 1723, the same Parliament allowed an *appel comme d'abus*, at the instance of the collateral heirs, and declared illegitimate the children by the wife's sister, notwithstanding the marriage was had under a dispensation from the Pope [3]. It is certainly not a little strange that, whilst those who oppose the change of the law are accused of belonging to a party inclined to Rome, so much reliance should be placed by our opponents on a Romish interpretation of Scripture, eschewed by all Protestants, and that Bishop Wiseman should be the principal witness to prove our Protestant interpretation of Scripture to be erroneous. What too will be said of the Kirk of Scotland, which is even more warmly opposed to the Bill than the Church of England? Is that Kirk Puseyite? But, sir, it is not a party that objects to this measure. We have heard of 700 clergy having petitioned in favour of this Bill. Why, there are nearly 20,000 clergy in England. When we recollect the activity of the agency brought to bear on this measure (of which I wish to say nothing harsh, for those who conscientiously believe the law to be wrong have a right to exert themselves to effect its alteration),

[3] See Appendix C.

we may well be surprised that the petitions have not been far more numerous.

To conclude, then, with expressing my own views of the question as regards Divine prohibition. I think that, notwithstanding Bishop Wiseman and the Romish Church, few persons will doubt that the prohibitions in the 18th chapter of Leviticus, whatever dispute there be as to their terms, were general, and not confined to the Jewish people. We are expressly told that the prohibited unions were *abominable* in the eyes of God; that on account of such abominations the land of Canaan, in the forcible words of Scripture, vomited out its inhabitants. Now, who were those inhabitants? They were heathens, who had not been taught any peculiar code, but were amenable to a moral code only. We cannot conceive that they would be thus punished for disobeying a law intended for the Jews only, and which they had never heard of. It is plain, then, as I have endeavoured in the previous part of my argument to show, that the offences were moral offences, contrary to natural no less than to revealed religion; and therefore that the Canaanites were justly punishable for such abominations. It remains only to be seen whether this case of the wife's sister be among the prohibitions. It is not so in words, neither is that of a man's own daughter; and it is plain that strictly verbal interpretation is not the true key to open the meaning of the passage. On the other hand, marriage with a brother's wife (except in the case I have above referred to) is pro-

hibited, and so is the marriage with a woman and her daughter, both of them cases of affinity only. It is upon this ground that the Church has always prohibited the marriage with the wife's sister by parity of reasoning. Jurists also, Grotius, Basnage, and Merlin, all lay down the rule that the prohibition of marriages between parties related by affinity extends to the same degrees as that of marriage between parties related by blood. Now, the only doubt that has ever been raised upon the subject has been founded on the 18th verse of the chapter. But for this verse, I apprehend, all Protestant Christians would have been agreed upon the subject. This verse, by forbidding a marriage with a wife's sister in her lifetime, has been thought to lead to the inference that it is allowable after her decease. Now, it is first to be observed, that a sect of the Jews, called Karaites (who followed the literal words of Scripture rather than the glosses of Talmudists), interpreted the words "take a wife to her sister" in the manner in which it is given in the margin of our Bibles. "One wife to another," for the expression "wife to her sister" is in Hebrew a proverbial expression, meaning, adding one thing to another, and is so applied to joining one curtain to another in the description of the Tabernacle[4], and of other inanimate objects in Ezekiel. They held it, therefore, to be a prohibition against polygamy; and if it be said that this would prove David and Solo-

[4] In Exod. xxvi. 3. 5, 6. 17, the expression is so used five times. Ezek. i. 9, 23, and iii. 13.

mon to have broken a divine commandment, the answer is that they clearly did break an express commandment in Deuteronomy, when they "multiplied to themselves wives." Nevertheless, I would not rest on this interpretation; still less will I accept the glosses of the Talmudists to which the supporters of the measure refer; I hold that the Christian interprets God's law, not by the light of Jewish doctors, but by that of the Sermon on the Mount. We hold that the "commandment is exceeding broad," and give it, as the Church has done, its full breadth, not seeking to narrow that which has been the Christian interpretation for centuries, to suit the mind or tone of the present age. The 18th verse may, consistently with that interpretation, be taken in connexion with the preceding verses, as not annulling them, but implying a prohibition, *à fortiori*, against *polygamy* with the wife's sister. To say the least, it is a strange course of interpretation which would construe this special prohibition into an inferential permission, where the two verses immediately preceding had forbidden marriage in cases of affinity, one of them being exactly analogous to that in question.

To my mind, sir, convinced as I am that the prohibitions are founded on a general and not a particular law of God, and that the awful penalties denounced against the Canaanites are held out as the sanction of that law, it appears that any one who has but a doubt as to the interpretation of the par-

ticular verse in question, will not hesitate to retain the law of England unaltered. Instead of admitting the argument, that we are bound to show a clear prohibition, I say, that where the penalties are so awfully denounced, where the moral feeling of all Christendom, no less than its religious convictions, has, till the last few years, acquiesced in the law as we happily yet hold it, the only safe course of action is to abide by the existing state of things, and not to step into a new path, the commencement, I fear, of a downward course in all that is high and sacred in our social relations. See what inconsistencies there are in the right honourable gentleman's course. Last year he would have you allow the marriage with a wife's niece; this year, not. Again, by the proposed Bill the Clergy are allowed to adhere to those canons to which they have vowed obedience, and which prohibit these marriages. It would have been very unjust were it otherwise; but yet in what position are the daughters of members of the Church, whose affections may be entangled, and may then be told, "Your pastor will not marry you. He has a conscientious objection to do so; and the same law which allows you to marry your sister's husband, allows him to refuse the solemn sanction of the Church to your union?" I trust it is not yet too late to call upon all thoughtful men, on grounds of public morals no less than upon those of a more sacred character, to oppose this first relaxation of the marriage-code—of a system on which our

English homes have been founded, and in which may they ever be maintained in their distinguished purity [5] !

[5] See Appendix D.

APPENDIX.

A.

The promoters of the Bill have caused an advertisement to be printed in the *Times*, which I presume was intended to be a contradiction of my statement with reference to the parishes of St. Margaret and St. John, Westminster.

No expense, as I have observed, is spared in "getting up" the case, and the same statement has therefore been printed as a circular, and sent round to members of Parliament and others.

It purports to be drawn up by a gentleman employed in visiting the poor, and states that he knows four cases by name, of parties who have married their late wife's sister, in the parish in which I had stated I knew of only one case. I, of course, could only speak of what I knew, and according to the best information I could obtain. I expected that what I said would be taken as a challenge by the very active agents on behalf of the Bill, and am glad to find my impression of the extreme paucity of such marriages so remarkably confirmed. With all their diligence they can only find four cases in a pauper *population of twenty-six thousand at least.* The same gentleman, however, adds that, in the course of his visiting the poor, he finds "many cases" of persons living with their late wife's sister; and that some of such persons have complained to him of the law which compels them to live in sin. Now, in the first place, I must

here repeat that I set no value on vague statements. I have received a letter from a Clergyman in the Potteries, telling me that I am quite wrong in my views, for he knows of "many such cases" among the poor, and married a couple himself. I answered the letter by stating that I accepted the *one* case of which he had personal knowledge, but that I must be allowed to place no reliance on the "many cases;" but I should, however, feel greatly obliged by his sitting down and endeavouring to reckon up any cases of which he had actual knowledge, for that I only desired to ascertain the truth. To this I received *no reply*. To return, however, to Westminster. Our parish is unfortunately one in which the lowest thieves and persons of most disorderly character congregate; many of them in wretched lodging-houses, where little or no decency can be expected. There are consequently numerous cases of concubinage, and when any benevolent person (such as the author of the statement that has been advertized) visits persons living in this state, they are very anxious to palliate their course of life. I am not surprised, therefore, at the complaints made by them of the state of the law as preventing their marriage, though I should doubt whether the alleged relationship between them be not, in many of such cases, fictitious, and invented as an excuse for their not being married. However, the numbers not being given, I cannot set much value on this evidence. From my experience of *impressions*, as contrasted with statistical facts, I usually regard "many" as meaning at most two or three instances.

B.

The state of our law is singularly misunderstood, not only "out of doors," but by many members of Parliament. It is supposed that because the marriage with a wife's sister was *voidable* only, and not *void* until Lord Lyndhurst's Act, there was a species of half sanction to such unions. Now,

the fact is, that no such marriage was ever in the smallest degree sanctioned; but the Courts of Common Law would not allow any proceeding in the Ecclesiastical Court to set them aside after the death of either party, so that after the death of husband or wife there was no mode of obtaining a judicial decision, and of course all marriages actually solemnized are good till such sentence is given. The best mode of making this understood is to call attention to the case of marriage with a man's own sister or mother, being in precisely the same position, and in the same sense voidable only, not void.

Another prevalent error is the assumption that the law, until the passing of Lord Lyndhurst's Act, rested entirely on ecclesiastical interpretations of Scripture. Now, there has ever been a remarkable unanimity of the lay and clerical interpretation of the 18th chapter of Leviticus. For, in consequence of the 32nd Henry VIII., c. 38, having enacted, "That no reservation or prohibition, God's law except, shall trouble or impeach any marriage without the Levitical degrees," the Courts of Common Law, being the proper courts to determine on the construction of a statute, were in several cases called upon to prohibit proceedings in the Ecclesiastical Courts for invalidating marriages, on the ground that such marriages were within the saving of the Act of Parliament. Amongst other such cases that of marriage with a deceased wife's sister was fully argued in Hill *v.* Good, Vaugh. 302; and the Court determined, as it has repeatedly done since, down to the present day, that this marriage is not within the meaning of the Act of Henry VIII., and that it is within the Levitical degrees. There is no point, therefore, on which there has been more complete unanimity of opinion on the part of both the lay and Ecclesiastical Courts.

With regard to the Levitical degrees, it is a favourite argument that the marriage in question involves no union of

blood relations. Now a stepmother is not a blood relation; yet St. Paul tells us that incestuous intercourse with a stepmother was repugnant even to heathen morals. And it is remarkable that the *express* prohibitions in Leviticus extend to *six* blood relations, and to *nine* who are related by *affinity* only.

C.

This case of the Marquis de Sailly is a curious instance of the evils attendant on the Romish theory of dispensations. The Council of Trent expressly forbade the payment of any fees for such dispensations in regard to marriage; but in the course of the proceedings it appears that the Marquis applied in vain for eleven years to one Pope for a dispensation, but obtained it from his successor on payment of a fee of 20,000 livres. The amount of this fee was relied on by Counsel, as showing that it was an actual dispensation; in answer to an allegation of those who supported the marriage, that in fact there had never been an actual union with the first wife, and that it was only for the sake of appearances that a dispensation was asked for; the argument being that, in the latter case, not more than 1200 livres would have been required as a fee.

It may here be observed that, by the very fact of granting dispensations, the Church of Rome continues to bear testimony to the general voice of Christendom against such marriages, the dispensation proving their illegality. Our Reformed Church, no less than the Gallican Church, repudiates this dispensing abuse.

D.

If I had not been limited in regard to time, I should have wished to expose the extreme danger of allowing a breach of the law to be an argument in favour of its repeal, where the subject-matter of the law is the social fabric itself. I can understand the argument that frequent smuggling is a

proof that you have erred in your fiscal arrangements, or that the frequent breaches of the game-laws show their unsoundness. But no one, except perhaps a Communist, would say that the frequent occurrence of theft or forgery in a highly civilized country, is a ground for legalizing such modes of plunder.

It is obvious that the relaxation of the law of divorce may be, and if this Bill pass probably will be, supported by the same species of reasoning. We do not allow the wife to obtain a divorce for cruelty. Some active agents could readily furnish the statistics of adultery; in many cases the crime has been occasioned by the maltreatment of the wife by her husband. Here we should be told that Prussia, nay, even Scotland, allows of a more relaxed code of divorce than our own; therefore, such relaxation cannot be against Scripture, and the onus of proving it to be wrong lies upon its opponents. Several German authors and authoresses (!) have lately advocated what they call "the emancipation of the flesh," or an abolition of all the restraints of marriage.

I am aware that this line of argument, namely, the danger of consequences, is of no value to *prove* your case. But, if you reduce the question to a doubt, it is a legitimate line of argument to insist on standing upon the safe side.

The strangest of the devices resorted to by the supporters of the Bill has been an attempt to raise the cry of "Religious Liberty." Suppose a sect to arise which shall claim a right to resort to polygamy, or another which shall deny the power of the State to insist on marriage at all, will it be persecution to retain marriage, or to restrain it to one wife or one husband?

It is much to be lamented that first principles, either of morals or of government, should ever come into discussion; and assuredly a weaker ground was never taken for so hazardous a course, as the almost imaginary hardship of a man being restricted from marrying one or two individuals

out of the whole female community. The only alleged grievance indeed has been that you deprive a man of the power of securing the aunt as the best guardian of his orphan family. Mr. Roebuck happily observed that you do not improve her position in this respect by making her a stepmother.

THE END.

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